



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

**Internal Management and Fiscal
Responsibility Committee**

Thursday, March 10, 2005
2:00 PM
Commission Chamber

Charles Anderson, CPA
Commission Auditor

111 NW First Street, Suite 250
Miami, Florida 33128
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**Miami-Dade County Board of County Commissioners
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Legislative Analysis

**Internal Management and Fiscal Responsibility Committee
Meeting Agenda
March 10, 2005**

Written analyses for the below listed items are attached for your consideration in this Legislative Analysis.

Item Numbers

2(A)	2(H)
2(B) & Substitute	2(K)
2(G)	

If you require further analysis of these or any other agenda items, please contact Gary Collins, Acting Chief Legislative Analyst, at (305) 375-1826.

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LEGISLATIVE ANALYSIS

ORDINANCE RELATING TO CONFLICT OF INTEREST AND CODE OF ETHICS ORDINANCE; EMPLOYEES & DEPARTMENTAL PERSONNEL ARE PROHIBITED FROM PERFORMING CONTRACT-RELATED DUTIES.

Commissioner Barbara Carey-Shuler, Ed.D.
Commissioner Dennis C. Moss
Commissioner Rebeca Sosa

I. SUMMARY

This Ordinance relating to the Conflict of Interest and Code of Ethics Ordinance, is amending Section 2-11.1 of the Code of Miami-Dade County, Florida.

- This amendment prohibits employees and departmental personnel from performing contract-related duties under certain circumstances for a specified period of time.

II. PRESENT SITUATION

Currently we have the following prohibitions:

- No person who is serving as an elected county official or a member of their staff, or as county manager or their senior assistant, or department director shall enter into a business transaction with any person or entity that has a contract with Miami-Dade County.
- These provisions shall not apply to business transactions with a not-for-profit entity.

III. POLICY IMPLICATIONS

This amendment would prohibit, any person who was previously employed by or held a controlling financial interest in a business entity, for a period of two (2) years following termination from their prior relationship with the business entity, to perform any county contract-related duties regarding the business entity. This includes the following:

- Serving as a member of a County committee;
- Approval or recommendation of award of contract;
- Contract enforcement, oversight or administration;
- Amendment, extension or termination of contract; or
- Forbearance regarding any contract.

IV. ECONOMIC IMPACT

None.

V. COMMENTS

- These provisions shall not apply to the County Manager or the Director of Procurement Management.

LEGISLATIVE ANALYSIS

ORDINANCE ESTABLISHING 'BUILDING BETTER COMMUNITIES' GENNERAL OBLIGATION BOND PROGRAM ADVISORY COMMITTEE

Dr. Barbara Carey-Shuler

I. SUMMARY

This ordinance creates a 21 member *Building Better Communities* Citizen Advisory Committee (BBCCAC).

This Advisory Committee shall hold meetings no less than four (4) times per year in order to monitor the progress of the Building Better Communities Program, advise the Mayor, Board of County Commissioners, and County Manager on the progress of the program, and provide outreach efforts within the community to help educate the public on the status of projects contained within the General Obligation Bond program.

II. PRESENT SITUATION

There are currently 96 Citizen Advisory Committees, Boards, Councils, etc...

These committees are utilized to gain public in-put and advice for the Mayor, Board, and Manager, as well as oversee various County Programs in order to insure that these programs are providing their desired results.

III. POLICY CHANGE AND IMPLICATION

As demonstrated by the current number of these types of committees listed in the previous section, the creation of this advisory committee is consistent with County Policy.

IV. ECONOMIC IMPACT

The County Manager's memorandum compares the cost of support for this committee with that of the Safe Neighborhoods Parks Citizen Oversight Committee at approximately \$500,000 for FY 2004-2005.

However, because the Safe Neighborhoods Parks program is winding down, the Citizens Committee is meeting less frequently than when that program was at its peak.

It is likely that the costs for the Building Better Communities Citizens' Advisory Committee (BBCCAC) will be higher than the current budget for the SNP. These increased costs would be associated with Start-up costs for staffing and Operating Capital outlay associated with a first year advisory committee (Approx. 5 people including the director), increased public notice requirements, and the fact that the BBCCAC is a larger group than the SNP Oversight Committee

V. COMMENTS AND QUESTIONS

In recent years, some concerns have been raised regarding the inabilities of many County Boards to meet quorum requirements.

Because the BBCCAC meets quarterly, and has a large number of members, perhaps the problems related to quorum will not be as prevalent.

Further, some media sources have detailed strained relationships between the County Commission and the Citizens Independent Transportation Trust (CITT).

However, because the BBCCAC is "advisory" in nature and has not veto authority regarding the GOB projects, these problems encountered in the early years of the CITT should not be an issue.

LEGISLATIVE ANALYSIS

ORDINANCE PROVIDING FOR REVIEW OF CONTRACTOR BUSINESS INTEGRITY BY THE INSPECTOR GENERAL.

Commissioner Katy Sorenson

I. SUMMARY

This Ordinance relates to Section 2-8.1. Contracts and Purchases generally, and Section 2-1076. Office of the Inspector General ("IG"), of the Code of Miami-Dade County, Florida ("the Code").

- This amendment provides for review of contractor business integrity by the IG;
- Defining criteria for determination of business integrity;
- Establishing procedure for conducting review and withholding of contract award during pending investigation; and
- Providing additional authorization and responsibility to the IG.

II. PRESENT SITUATION

- Presently, the IG does not have a proactive role in determining business integrity within the procurement process.

III. POLICY IMPLICATIONS

This amendment would authorize the IG to review the business integrity of County contractors and provide reports regarding same. Contract awards will be given only to contractors with business integrity. The IG review shall be concluded within sixty (60) days of the initial request, unless BCC extends period at IG's request. Upon conclusion of review, the IG will file a written report of the findings with the BCC.

The following criteria may be considered in determining business integrity:

- The commission of bribery, fraud or misrepresentation;
- Conflicts of interest;
- Violations of any laws regarding contractor integrity and responsibility;
- Attempts to cure any alleged problem in contractor performance or responsibility;
- History of performance with the County and general business history; and
- Any other conduct relating to business integrity of the contractor.

IV. ECONOMIC IMPACT

- The amendment shall be limited to contracts for public improvements and purchases costing \$500,000 or more.

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V. COMMENTS

- Any member of the Board of County Commissioners ("BCC") who has a good faith belief that a current/proposed County contractor may not have business integrity, may request an IG review in writing.
- Each Commissioner shall be limited to two (2) requests for investigation per year.

LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT

RESOLUTION DIRECTING THE COUNTY MANAGER TO EXPLORE THE CREATION OF A POOL OF RETIRED JUDGES, RETIRED BUSINESS PERSONS AND LAY PERSONS TO OBSERVE SELECTION COMMITTEE PROCEEDINGS TO ENHANCE TRANSPARENCY AND CONFIDENCE RELATED TO THE PROCUREMENT PROCESS

Commissioner Rebeca Sosa

I. SUMMARY

As stated in this item's title, this resolution directs the County Manager to look into creation of a pool of retired judges, retired business persons and lay persons to observe selection committees.

II. PRESENT SITUATION

Presently, selection committees are comprised of members who are recommended to the County Manager by the Department of Business Development (DBD) in accordance with Administrative Order 3-34, entitled "Formation and Performance of Selection Committees." (See Attachment #1.)

III. POLICY CHANGE AND IMPLICATION

This item directs creation of a pool of persons to "observe" selection committees, and might not necessarily be interpreted to include "participation" in the selection process.

Neither A.O. 3-34 nor its referenced section of the County Code (Sec. 2-10.4) appear to preclude inclusion of community or public members on selection committees except for the A.O. 3-34 requirement that "Project Specific Agreements where the projected budget for A&E fees is in excess of \$2 million, the selection committee shall consist of County members at the Division Director level or above, or their equivalent, exclusively."

IV. ECONOMIC IMPACT

None unless incorporation of observers caused meetings of selection committees to be delayed and the subsequent contract awards to also be delayed, thereby having potential economic impact.

V. COMMENTS AND QUESTIONS

Alternative approaches could include empowering the pool:

- As nonvoting, "advisory" members of selection committees; or
- As a separate advisory council that might observe a number of selection committees and make process recommendations to the BCC and/or County Manager. An advisory council might be modeled on the State of Kentucky's "Procurement Advisory Council" as described in Attachment #2.

Administrative Order



Administrative Order No.: 3-34

Title: Formation and Performance of Selection Committees

Ordered: 2/3/2004

Effective: 2/13/2004



AUTHORITY:

Section 4.2 of the Miami-Dade County Home Rule Amendment and Charter; and Section 2-10.4 of the Code of Miami-Dade County.

SCOPE:

This Administrative Order (AO) establishes uniform procedures for the formation and performance of selection committees in the competitive procurement processes of Miami-Dade County, including competitive selection committees utilized in the acquisition of architectural and engineering (A&E) professional services under Section 287.055 of the Florida Statutes.

POLICY:

Selection committees that are fair, impartial and objective shall be utilized in the competitive procurement processes of Miami-Dade County for the evaluation of offers, proposals or quotes submitted by individuals and firms seeking contract award. The provisions of this Administrative Order address the County's internal administrative processes and are not intended to serve as a basis to challenge the ultimate selection or contract award recommendation in any particular procurement action.

FORMATION OF SELECTION COMMITTEES:

The pool of potential selection committee members shall be established by the Department of Business Development (DBD). DBD shall forward the names of the recommended selection committee members to the County Manager for approval. The composition of selection committees shall be as follows:

- A. A. Selection committees shall consist of 5 voting members, excluding the committee chairperson. The committee may consist of 7 voting members if determined to be necessary by the County Manager or his or her designee. A selection committee of three (3) voting members may be used only for RFP/RFQs that are under the dollar threshold for formal sealed bids and in the evaluation of proposals for a specific project from an established pool of vendors already qualified under an RFP or RFQ process.

Attachment #1

- B. B. The chairperson of the selection committee shall be non-voting member from the professional procurement staff of the Department of Procurement Management (DPM), and if DPM is not the issuing department, then the chairperson shall be a non-voting member from the professional procurement staff of the issuing department.
- C. C. Selection committees shall include one voting member from the user department for committees consisting of 3 voting members, and two voting members from the user department for committees consisting of 5 or 7 voting members. One voting member shall be from the Department of Business Development (DBD), and shall be assigned on a rotational basis.
- D. D. The Majority of the selection committee members shall have the technical background necessary for understanding the scope and requirements of the particular procurement. The Director of the user department, and the Directors of the Departments of Business Development and Procurement Management, may request the addition of non-voting technical advisors to supplement the technical expertise of selection committees.
- E. E. The selection committee members shall be recommended on a rotational basis from the selection committee pool, based on parameters established for the specific project.
- F. F. An alternate voting member shall be included at the time the selection committee is appointed, and will become a voting member in the event that a member substitution is required.

In all cases of selection committee formation, the County Manager shall appoint committees that are balanced in their representation of the Miami-Dade County community with regard to ethnicity and gender.

When a selection committee is utilized in the evaluation of proposals for a contract estimated to exceed five million dollars (\$5,000,000) for the base period, such committee shall consist exclusively of Division Directors, their equivalent or higher ranking County staff.

Participants in the selection committee pool shall be required to attend a workshop facilitated by DPM, which describes the role and responsibilities of a selection committee member, and reviews pertinent legislation affecting the selection process.

PERFORMANCE OF SELECTION COMMITTEES:

Each individual appointed to a selection committee shall sign an affidavit attesting to his/her neutrality and assuring that his/her service on such committee shall be in compliance with the Conflict of Interest and Code of Ethics Ordinance (Sec. 2-11.1). Individuals appointed to serve as selection committee members must attend all meetings and be prepared to take action. Any request by County staff, including Department Directors, to be excused from

Attachment #1

selection committee service must be in writing, delineating serious and legitimate reasons, and must be signed by the Department Director and sent to the County Manager through the Director of the Department of Business Development.

All proceedings of selection committees shall be audiotaped in accordance with Administrative Order No. 3-31.

The performance of selection committees is subject to the requirements and prohibitions of the County's Cone of Silence Ordinance and the State of Florida's Government in the Sunshine Law. Those provisions must be studied and strictly adhered to by committee members.

EXCEPTIONS:

All of the foregoing procedures apply uniformly with the following exception for the A&E process:

For Project Specific Agreements where the projected budget for A&E fees is in excess of \$2 million, the selection committee shall consist of County members at the Division Director level or above, or their equivalent, exclusively.

EFFECTIVE DATE:

This Administrative Order shall become effective after approval by the Board of County Commissioners, and shall apply prospectively to selection committees appointed after the effective date.

This Administrative Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

George M. Burgess
County Manager

Attachment #2

Kentucky Revised Statutes

List by Section

Statutes Last Updated July 16, 2004

Includes Enactments through the 2004 Regular Session

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KRS Chapter 045A00

45A.065 Procurement advisory council -- Other advisory councils -- Procurement institute.

(1) The secretary of the Finance and Administration Cabinet may establish a procurement advisory council which shall meet at least once a year for the discussion of problems and recommendations for improvement of the procurement process. When requested by the secretary, the procurement advisory council shall conduct studies, research, analyses, and make reports and recommendations with respect to such subjects or matters within the jurisdiction of the secretary as may be prescribed. The procurement advisory council may consist of such qualified representatives of government, industry, educational institutions, and the general public as the secretary may deem desirable. Members shall be reimbursed for expenses incurred in the performance of council duties subject to the provisions of KRS 45.101.

(2) The secretary of the Finance and Administration Cabinet may appoint advisory councils to assist him with respect to specifications and procurement in specific commodity areas as well as other matters within his authority. Advisory council members may consist of various qualified representatives as described in subsection (1) of this section, as may be appropriate for the designated task or project. Compensation shall be provided as in subsection (1) of this section.

(3) The secretary may also establish and maintain, either alone or in cooperation with other states, the federal government, municipalities, or other units of local government, a procurement institute for the purpose of disseminating information concerning state procurement and for training and educating officials and other persons in procurement, including persons not employed by the Commonwealth.

Effective: July 1, 1983

History: Amended 1982 Ky. Acts ch. 450, sec. 61, effective July 1, 1983. -- Created 1978 Ky. Acts ch. 110, sec. 14, effective January 1, 1979.

Source: <http://162.114.4.13/KRS/045A00/065.pdf>

LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT

RESOLUTION CREATING "THE MIAMI-DADE COUNTY CHILDREN'S ASPIRATIONAL BILL OF RIGHTS."

Commissioner Barbara Carey-Shuler, Ed.D.

I. SUMMARY

This resolution establishes a Children's Bill of Rights for Miami-Dade County, which outlines the County's aspirations to protect the rights of children living in the county.

II. PRESENT SITUATION

This Bill of Rights was drafted during a Nov. 12, 2004, "Children's Bill of Rights" conference sponsored by then-Commission Chairperson Dr. Barbara Carey-Shuler. More than 300 people attended the conference, including the current Chief Justice of the Florida Supreme Court, children's rights advocates, the mayor and county manager, and teens and children from local schools.

The conference and the resulting document were based on a United Nations/UNICEF conference which produced a **Convention on the Rights of the Child**. That U.N. document was ratified by every nation in the world, except for the United States and Somalia. The United States has signed the Convention, signaling its intention to eventually ratify it.

III. POLICY CHANGE AND IMPLICATION

The provisions in this document are stated as aspirational goals and do not create any liabilities for the County. Nor does the document enshrine any unfunded mandates that the County would later be responsible for meeting. The County Attorney has reviewed and approved the document. The document is explicit in that it does not create any new entitlements, or private right of action, nor could it be construed to violate state or federal law.

The Florida State legislature has adopted a similar bill of rights, but specifically for foster children. The provisions in that document are also stated as goals and are not legally binding or enforceable.

Miami-Dade County would be among the first counties in the nation to adopt such a document designed for children. While Children's Bills of Rights are often advocated by children's rights groups in other municipalities around the nation, such resolutions are rarely passed by governing bodies.

- The **City of Los Angeles** was the only other major municipality that was found to have passed a Children's Bill of Rights in 1990. *Requests for information from the City of Los Angeles were not answered by the time of this printing.*

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- The City of Mukilteo, WA, in 1991, passed an ordinance that protected children from abuse and assault. The measure, hailed as the beginning of a "Children's Bill of Rights" in that city, was largely symbolic because other city and state statutes provided the same protections.

IV. ECONOMIC IMPACT

None.

V. COMMENTS AND QUESTIONS

This document has gained the backing of the Children's Trust and the County's other leading children's rights groups.

Other South Florida counties are following this item and have expressed an interest in passing similar resolutions.

Attachments:

- 1) Preamble from "Convention on the Rights of the Child." For full text of Convention see <http://www.unicef.org/crc/fulltext.htm>
- 2) "Children's Bill of Rights OKd," *The Los Angeles Times*, 10/3/90



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Full text of the Convention

The Convention on the Rights of the Child was adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. It entered into force 2 September 1990, in accordance with article 49.

Status of ratifications

Preamble

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations and in particular in the spirit of peace, dignity, tolerance, freedom, equality

and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children, '

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

Part I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected

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LOCAL

Children's Bill of Rights OKd

Los Angeles Times

October 3, 1990

Author: From Times Wire ServicesLate Final Desk

Estimated printed pages: 1

The City Council, acting in the wake of international Children's Week, adopted a sweeping policy today that establishes a children's bill of rights and other significant provisions safeguarding youths' needs.

The document, hammered out over the past seven months by child experts from various city departments, calls for the city to consider the needs of children before adopting any new laws or policies.

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